

**Notice of Allowability**

Application No.

09/209,815

Examiner

James W Myhre

Applicant(s)

FERSTENBERG ET AL.

Art Unit

3622

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on March 4, 2005.
2. ☒ The allowed claim(s) is/are 116-121, 123, 125, 126, 129-138 and 140-145.
3. ☒ The drawings filed on 04 March 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on March 4, 2005 is sufficient to overcome the objections to Claims 127, 128, 139, 146, and 147 under 35 CFR 1.75(c) in paragraph 2 of the November 12, 2004 Office Action by canceling these claims. The currently pending claims considered below are Claims 116-121, 123, 125, 126, 129-138 and 140-145.

### ***Drawings***

2. The amended drawing filed on March 4, 2005 is acceptable and has overcome the informalities indicated on the "Notice of Draftsperson's Patent Drawing Review," PTO-948, forwarded as part of paper number 7 on August 14, 2000.

### ***Allowable Subject Matter***

3. Claims 116-121, 123, 125, 126, 129-138, and 140-145 are allowed.

### ***Examiner's Statement of Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance:

While prior art was disclosed which disclosed an electronic intermediated exchange of a plurality of commodities among a plurality of participants through negotiations by receiving offers and counter-offers from the participants through an intermediary (Silverman et al 5,924,082; Ausubel 5,905,975; Thiessen 5,495,412;

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Watanabe et al JP10-261026; and Oppenheim, Eve "Electronic Trading Systems"), according to the Board Decision of June 18, 2004 the cited prior art did not disclose that the intermediary, not the negotiating parties, **generated** and sent a series of offers to both of the participants based on responses (counter-offers) from the participants. An additional search of the prior art failed to locate any other disclosure in which the intermediary **generates** and sends a series of the offers to the participants instead of merely passing on the counter-offers receiving from the participants. Therefore, the non-obvious novelty of the invention is to have an intermediary **generate** and send a series of offers to both of the two negotiating parties.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached Monday through Thursday from 5:30 a.m. to 3:30 p.m.

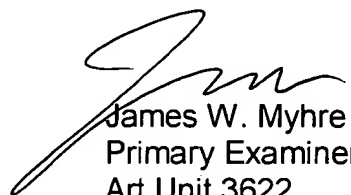
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, can be reached on (571) 272-6724. The fax phone number for Formal or Official faxes to Technology Center 3600 is (703) 872-9306. Draft or

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Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

  
JWM  
May 9, 2005

  
James W. Myhre  
Primary Examiner  
Art Unit 3622